

REMARKS

The Applicant thanks the Examiner for his careful and thoughtful examination of the present application. By way of summary, Claims 1 – 5, 8 – 9, 11 – 20, and 25 – 26 were pending. In the present amendment, the Applicant canceled Claims 6 – 7, 10, and 21 – 24 without prejudice or disclaimer and amended Claims 1 – 5, 8 – 9, 11 – 15, and 25 – 26. Accordingly, Claims 1 – 5, 8 – 9, 11 – 20, and 25 – 26 remain pending for consideration.

The Applicant also thanks Examiner Myhre for the interviews extended to the Applicants' counsel of record, John M. Grover, on Thursday, August 20, 2009 and telephonically on Monday, August 24, 2009. During the interviews, the Applicant clarified patentably distinguishing features of the claims and an agreement was reached relating to claim language. Accordingly, the Applicants have amended the claims along the lines discussed in the interview.

Rejection Of Claims 1-6, 8-9 and 11-14 Under 35 U.S.C. § 112, ¶ 2

Claim 1-6, 8-9 and 11-14 were rejected under 35 U.S.C. § 112, ¶ 2, as allegedly being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Specifically, Claim 1 was rejected based on inconsistency between the preamble and the claim elements. The Applicant amended the claims herein to adopt Examiner-recommended language. Accordingly, the presently amended claims are definite according to the requirements of 35 U.S.C. § 112, ¶ 2.

Rejection Of Claims 1-6, 8-9, 12-13, 15, 17-20 and 24-26 Under 35 U.S.C. § 103

The Office Action rejected Claims 1-6, 8-9, 12-13, 15, 17-20 and 24-26 under 35 U.S.C. § 103 as being unpatentable over U.S. patent no. 6,014,634, issued to Scroggie et al. (the Scroggie patent) in view of U.S. patent no. 6,359,635, issued to Perttunen (the Perttunen patent). The Office Action rejected Claim 11 over the Scroggie patent in view the Perttunen patent further in view of U.S. patent no. 6,006,265, issued to Rangan et al. (the Rangan patent). The Office Action rejected Claim 16 over the Scroggie patent in view the Perttunen patent further in view of Official Notice. In

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addition to the foregoing, the Examiner and the Applicants discussed U.S. patent no. 5,745,882, issued to Bixler et al. (the Bixler patent) and U.S. patent no. 6,862,594, issued to Saulpaugh et al. (the Saulpaugh patent).

The Applicant respectfully traverses the forgoing rejections and the relevance of the Bixler and Saulpaugh patents because all of the patents individually or improperly combined fail to teach or suggest the elements of the claims. See M.P.E.P. § 2143 (stating that in order to establish a *prima facie* case of obviousness for a claim, the prior art references must teach or suggest all the claim limitations). Additionally, to the extent employed, the Applicant traverses each "Official Notice" or other non-reference observation cited in the Office Action. Moreover, the Applicant asserts that the presently amended claims distinguish over the cited art of record and the Bixler and Saulpaugh patents as extensively discussed in the interviews.

No Disclaimers or Disavowals

Although the present communication may include alterations to the application or claims, or characterizations of claim scope or referenced art, the Applicants are not conceding in this application that previously pending claims are not patentable over the cited references. Rather, any alterations or characterizations are being made to facilitate expeditious prosecution of this application. The Applicants reserve the right to pursue at a later date any previously pending or other broader or narrower claims that capture any subject matter supported by the present disclosure, including subject matter found to be specifically disclaimed herein or by any prior prosecution. Accordingly, reviewers of this or any parent, child or related prosecution history shall not reasonably infer that the Applicants have made any disclaimers or disavowals of any subject matter supported by the present application.

Request For Telephone Interview

In view of the forgoing, the present application is believed to be in condition for allowance, and such allowance is respectfully requested. If further issues remain to be resolved, the Applicants' undersigned attorney of record hereby formally requests a

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telephone interview with the Examiner. The Applicants' attorney can be reached at (949) 721-2946 or at the number listed below.

Co-Pending Applications of Assignee

The Applicants wish to draw the Examiner's attention to the following co-pending applications of the present application's assignee.

Serial Number	Title	Filed
09/825,772	SYSTEM AND METHOD FOR PROVIDING PERMISSION MARKETING TO SUBSCRIBING CONSUMERS	April 4, 2001

In addition, please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

KNOBBE, MARTENS, OLSON & BEAR, LLP

Dated: August 27, 2009

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AMEND

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